G. R. S. IX-5]

Previous references.

File No. 2

1900.

(Pt 2.)

Serial Nos. 1-10

Later references.

Ab 153-35-6

GENERAL AND REVENUE SECRETARIAT.

IX 5

P. IX 5

Serial Nos. 1-10

in **Part B for** June 01.

SUBJECT.

Surrender of Convicts undergoing imprisonment in the Mysore gaols, to the British authorities.

Index

✓

W D 68—GPL—50,000—21-7-16

(4) (#)

Sirdar

There 3 body warrants requiring the production of 3 prisoners of the central Jail to answer a charge against them pending before the Station 2nd Class Magistrate of Penakonda appear to have been issued under Ss. 3 & 6 of the Porisoners Testimony Act XV of 1869 instead of under Sec. 8 which appears to apply to the case.

Further the body warrants are dated 22nd March 1900 & issued as they have been under the Pr. Tes'y Act XV of 1869 which has been was repealed in toto by the Porisoners Act III of 1900 which appears to have come into force on the 3rd Febry 1900 the date on which when it appeared in the Gazette, the proceedings taken under the repealed Act appear to be irregular

The warrants should

Section — P.J. —
File No — 1900 —
Serial No —

Section 8 seems only to apply to prisoners required to give evidence in any criminal matter; not to persons required to answer a charge.

I do not see that reasoning from the fact that the warrants are worded as per Schedule B of the Act of 1869 instead of as per Schedule B of the Act of 1900. I see there is the slight difference in the wording.

shows it appears have properly been issued under the provisions of Sec. 40 of Act III of 1900 which if done the requisition would have come to this Office through the Residency from the High Court having appellate jurisdiction over the Peinkonda Magistrate. Thus adherance to the British provisions by British Officers in such cases would leave it to the discretion of the Local Govt whether or not to send the prisoner

As regards the 2nd point raised in Jail Supdts letter I have not been able to find a provision in the Mysore Regulation parallel to Sec. 55 of Ch. XII of the Prisons Act IX of 1894 which provides for the period during which a prisoner is beyond the limits of the Prison under lawful custody to be treated as if he were in Jail.

The Mysore & the Madras

✓

The Govt Advocate seems to be of the same opinion.
HK 26/9.

Sec 799 of Cr P C

3.

Guardians Jails are before the Council as they have been submitted for reference in connection with the subject of vaccinating prisoners on admission into jail.

[illegible]

13/2/00.

Subd. & Secy. with the d.o. reply req. from the Supt. Central Gaol.

The questions for orders are:—

1st Can prisoners confined in the Central Gaol be sent under custody & Constabulary outside the State in compliance with body warrants forwarded from the

1st That Bargains without the sanction of Govt. or in the absence of an extradition war-rant?

+ (Note. This is evidently not a case for extradition.)

2nd Whether the period of detention of prisrs. outside the Province by the Courts giving the body warrants would count towards the term of sentence awarded by the Courts in the Province of which they were undergoing at the time.

The Supt. has with his D.O. subd. 3 specimen body warrants which appear to have been issued

5

under the repealed Act
the present practice as
explained above seems
irregular.

As regards the 2nd
question a reference
to the Jail Manual
may perhaps throw
some light. The
Chief Court be referred
to for information as
to how the working of
a sentence is regulated
when a prisoner is sent
up under similar
circumstances by
any of the local
Courts.

AK 13/9/

Please send a note
drawn in original to
the Govt. Advocate
for favour of opinion early
14/9/00

Subd. to Secr. with
the Govt. Advocate's
opinion on the two
questions raised.
26/9.

I do not see what
need of reference to
the Resident is necessary.
Please dispose of
the matter.
27-9-00

Two drafts subd. to
Secr. for appl. 28/9

(7)

Sub:-

I have read through the Jail Manual of Mysore and have also made a small index. I have not come across any provision in it bearing on the 2 questions now under consideration.

Sec. 10 of the Mark Rules applicable to C. & Rs. Station Prisoners as printed on page cvi of the appendix of the Mysore Jail Manual and its corresponding Sec. 391 of the Madras Jail Code appears to allow a distinction being drawn between prisoners taken from jail to answer a charge & prisoners taken to give evidence, only in respect of the award of marks. To the former marks are disallowed whereas to the latter marks are allowed as if he were in hospital. But this does not seem to affect the question of his being regarded as undergoing imprisonment as 'marks' are only rewards for good conduct and therefore are probably properly withheld when the prisoner spends portion of his term in answering a self-brought evil ie answering a charge of offence by him.

Further

6

further clause 4 of section 530 of the Madras Jail Code requires the prisoner so taken to be confined during non Court hours (~~under chains~~) either in the Central or District or Subsidiary Jail or Police Lock-up as the case may be. This plus the fact that the prisoner liberty is not in any way restored during the time he passes in appearing before the Court do I beg to submit strengthen the view taken, that he is to be regarded as undergoing imprisonment during the period in question.

31/10/50.

Subs. with 2 drafts
for appl. 3/10-

Chief Commissioner's Notification,No.111,dated 23rd.July 1870.

Under the authority of His Excellency the Viceroy and Governor-General in Council, the Chief Commissioner directs that all certificates of character described, when issued by any Magistrate having Jurisdiction in any District of British India, shall be granted for and accepted by all Magistrates and Police Officers in Upper, Lower Burma and Assam, in the same manner, and if such processes shall be issued by any District having Jurisdiction in Upper Burma.

Subd Head.
Please read 0.8
21st. Jany. 1901.
The Supt. Central
Jail asks two questions.
The 1st. may be ansd.
in the affirmative
& the 2nd in the nega-
tive, I think. HK
15/1

I have quite under-
stood the question
Please write a Let
Mr Smith Rapen
& ascertain from him
& detail the facts
of 2 or 3 of the
cases referred to in
his letter communica-
tions — C
20/1/01

D-O-Signed Secy
HK 20/1

J. 150

1216 / 2-8-00 1900.

From
The Inspector General of Prisons
in Mysore.

To
The Secretary to the Govt. of Mysore.
Genl & Revenue Departt.

Dated 31st July 1900.
Despatched
Received
General No. 81
No. J

Enclosure No. 3

Submitting for orders of Govt. certain correspondence regarding prisoners required to be sent to courts outside the Province.

Section D

Jud
2.8.00
1) Please see page 81 of the Digest & Law Directory herewith put up
2) correspondg with letter No 2136 dated 9/8/00 to the Resident in order to submit the copy of the letter & forms & orders sent to proceeding to other Provinces with prisoners to also put up
Note Please put up bills & vouchers
8/8/00 connected with the movement of Prisoners Estimating Regulation
VD 1894.
9/8/00

11

D

From

The Inspector General of Prisons

in Mysore,

Bangalore.

To

The Secretary to the Government of Mysore

General and Revenue Departments,

Bangalore.

Dated 31st July 1900.

No. 81/J Enc: 3

Sir,

I have the honor to submit for orders of Government the marginally noted correspondence in original (to be ob-ligingly returned when no longer required) received from the Superintendent, Central Jail, Bangalore, and the Registrar of the Chief Court of Mysore regarding prisoners required to be sent to courts out-side the Province in compliance with body warrants for-warded through the District Magistrate, Bangalore.

I have the honor to be,

Sir,

Your most obedient servant,

M.D.,

Major, I.M.S.

Offg: Inspector General of Prisons.

Letter No: 25 dated 5th July 1900 from the Supdt. Central Jail to Registrar of the Chief Court.
Docket No: 216 dated 11th July 1900 from the Registrar to Superintendent
Letter No: 49 dated 12th July from the Supdt. to the Insp. Genl. of Prisons.
Letter No: 752-538 dt. 30th July/00 from the Registrar to the Insp. Genl.

Central Jail
Superintendent's Office
Bangalore 5th July 1900

No 25.

From The Superintendent
Central Jail

To The Registrar to the
Chief Court of Mysore
Bangalore.

Sir, I have the honor to bring to your notice that instances occur when prisoners are required to be sent to Courts outside the Province in compliance with body warrants forwarded through the District Magistrate Bangalore, and to request therefore that you will be so good as to intimate to this Office, for future guidance whether prisoners can be so sent to Criminal Courts outside the Mysore Province in the absence of an extradition warrant, or of sanction from Government: and, whether the period of detention of prisoners by such Courts outside the Province would count towards the term of sentence awarded by the Courts in the Province and which they were undergoing at the time.

I have the honor to be
Sir
Your most Obedient Servant
(Sd) S. Amir Hussain
Superintendent

1900/1

15

From The Registrar of the
Chief Court of Mysore
Bangalore

To The Superintendent
Central Jail

Dated 9th
Despatched 11th July 1900

General No. 216
No. 139

His letter No. 25 dated 5th instant requesting to be informed whether prisoners may be sent to Criminal Courts outside the Mysore Province in accordance with the body warrants forwarded through the District Magistrate of Bangalore.—

—a—

Has the honor to inform him that the reference should be made through the Inspector General of Prisons.—

/Signed/ V. A. Raja Ratna Mudaliar
Registrar.—

"True Copy"

Superintendent
Cent. Jail

In Bangalore Central Jail Office
Dated 12th July 1900

No 49 Encl one

From

The Superintendent
Central Jail

To The Inspector General of Prisons in
Mysore
Bangalore

Sir,

I have the honor to submit herewith
Copy of Correspondence between this
office and the Registrar Chief Court
of Mysore, regarding prisoners required
to be sent to Courts outside the Province
in Compliance with Body warrants
forwarded through the District Magistrate
Bangalore, and to request that you will
be so good as to make a reference
to the Chief Court and obtain a
ruling, for future guidance, as to
whether prisoners can be so sent
to Criminal Courts outside the
Mysore Province in the absence
of an esctradition Warrant or of
Sanction from Government: and
whether the period of detention

of

of prisoners by such Courts outside the Province would [illegible] Count towards the term of sentence awarded by the Courts in the Province and which they were undergoing at the time.—

I have the honor to be
Sir,
Your Mst. Obedient Servant

Superintendent
Central Jail
Bangalore

1900/1901. Regr dis: 92

N. 752/538 dis: 2

Bangalore,
30th July 1900.

From

The Registrar of the
Chief Court of Mysore.

To

The Inspector-General
of Prisons in Mysore.

Sir,

*Enclosures returned. With reference to your letter No. 65/J dated 26th Instant, I am directed to state that the question raised by the Superintendent of the Bangalore Central Jail regarding prisoners required to be sent to Courts outside the Mysore Province had better be referred to Government.

I have the honor to be,
Sir,
Your Most Obedient Servant

Registrar.

17

From The Superintendent
Central Jail Bangalore.

To The District Magistrate
Bangalore

Date 6th April 1900.
Despatched
No: 978.

His Memo Nos 1209, 1210 & 1211 dated 4th Instant forwarding body warrants from the Head Assistant First Class Magistrate of Penukonda for the production of the Marginally noted convicts before the Stationary Second Class Magistrate at Penukonda at 11 am. on the 10th Instant.

1821 Mylanga
1822 Obla
1823 Konda.

Have the honor to request that he will be so good as to inform the undersigned whether the prisoners referred to in the above Can be sent to Penukonda under the provisions of the Prisoners' Testimony Regulation V of 18[illegible] as the above place is situated out of the Mysore Province.

Sd S. Amir Hasan
Superintendent
Central Jail

18

From

The District Magistrate

Bangalore.

To

The Superintendent

Central Jail Bangalore.

Dated 7th April 1900.

Despatched

Received

No. A

His docket No. 978 of the 6th Instant requesting to be informed if the prisoners referred to can be sent to Penukonda under the Provisions of the Prisoners Testimony Regulation V of 1894

— 11 —

Has the honor to reply in the affirmative.

Sd. K. T. Puttanna Chetty

District Magistrate

Bangalore.

True Copy"

Superintendent

Central Jail Bangalore.

Section P & J
No 2-00
Serial No 9

19 Bangalore
20/8/00

Dear Mr. Superintendent Hasan

Please refer to your letters No 25 & 4998 5-th & 9 12-th July/00 & the Regr. Chf. Court of the J. & K. Prisons respectively.

The body warrants you refer to appear to be issued by British Courts through the D. Magte Bangalore who simply endorses them before passing them on to you and it is presumed that the prisrs concerned are wanted either to give evidence as witnesses or to answer to a Criminal charge.

However the matter placed for orders in your letters under reference is not clear and understandable. To enable a clear understanding of the matter I am desired to request you

to be so good as to furnish
in detail the full facts of 2
or 3 of the cases referred to in
official communications
in question.

Yours truly,

[illegible]

Bangalore (10)
4th Sept 1900

(3)

My dear Mr Ramanujengar

In reply to your D.O. letter dated 20th ult I beg to enclose herein for your perusal 3 daily warrants in original, and Copies of Correspondence

between myself &
the D.C. Magistrate
of Bangalore, in con
nection with the
same. The 3 prisoners
referred to were
sent from here on
the 9th April 1900 to
Penkonda, two of
these were returned
from there on
the 21st June and
one on the 4th July 190

Now the question
whether this
procedure is Cor-
rect & the period
thus spent (and
of Imprisonment Awaiting)
can be included in
the term of their
sentence.

Yours sincerely
Alfred Deakin

Jude,

Please put up the file

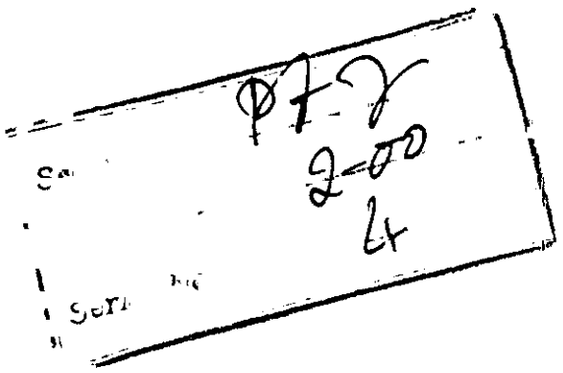
AK 8/9

Sub:
The file put up.
Ms
10/9/00
Can
Put up a short
note into a
Regulation T 3/1996
AK 11/9

Subs with a note
P.I
12/9

22

(5)



From

The Govt. Advocate in
Mysore

Dated Sept. 1900.

No 4248 / 438 dt 18/9/900

Enc 4 in original

I have the honor to forward herewith the marginally noted papers in original (to be kindly returned) for favor of an early expression of his opinion.

D. O.

17/9.

for Secretary.

Letter No 81/d of 31: July 1900 from the Supt. Govt. of Prisons. with its enclosures.

Copy of D.O. of 20: Aug. 1900 to Govt. Syed Amir Hasan

Reply to above of 7: Sept. 1900 from Govt. Syed Amir Hasan with its 4 enclosures.

Office note ending with Secretary's orders dated 14-9-00.

23

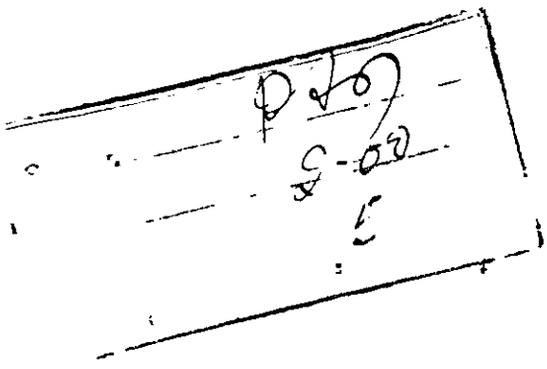
J. 380

3328
25. 9. 00.
1900

(6)

From

The Government Advocate
in Mysore.



To

THE SECY. TO THE GOVT. OF MYSORE,
GEN. & REV. DEPTS.

Dated 22. 9. 00.

Despatched

Received

General No. 76
No.

Enclosure No. 1 file.

Stating his opinions on certain points re prisoners required to be sent to Courts outside the Province in compliance with body warrants forwarded through the District Magistrates to the officers in charge of jails in the Province.

References to be marked.

Refers pursap to Sub-s 1 & 2 Regn
Dr 2 to Pro. Regs & the P. Penal
26/9/00 Act III of 1900 (A
Regn V of 1896

24

OFFICE OF THE
GOVERNMENT ADVOCATE IN MYSORE.

DATED 22d September 1900

No. 76
EH. No. 7 File

(6)

Rd. 7.20 pm
KR 22/9/

From

THE GOVERNMENT ADVOCATE
IN MYSORE.

To

THE SECRETARY TO THE GOVERNMENT OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

Sir,

With reference to your letter No. 4248, dated the 18th instant, J-438
I have the honor to state that under Sections 83 & 84 Criminal Procedure Code, any warrant to be executed outside the jurisdiction of the Court issuing the same may be forwarded by post to any Magistrate within whose jurisdiction the person to be arrested resides. They do not apply to persons confined in

any jail.

The Magistrate of Pentlanda appears to have sent the warrants under the provisions of the said Section. But there being a special provision for cases applicable to arrest of persons confined in a jail I am of opinion that the Magistrate has to follow that procedure.

Under Section 40 of the Prisoners' Act No III of 1900, the Magistrate has to send the warrant to the High Court of Madras & it is for any Judge of the High Court to decide whether the warrant has to be sent—

sent for Execution or not.

As to the 2nd point, I am of opinion that the period during which the prisoner is detained till the completion of his trial would count towards the term as he is not released on bail during that period but sent for detained in custody till he is sent back to the Jail whence he was sent.

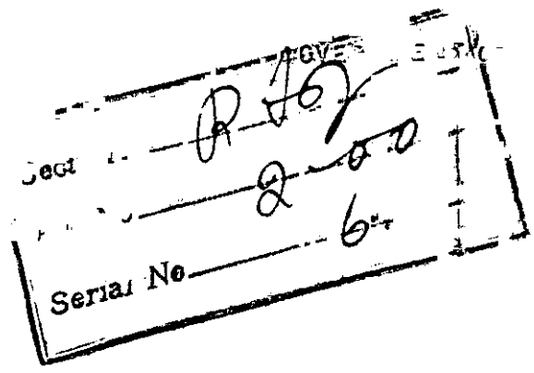
The file of correspondence is herewith returned.

I have the honor to be
Sir,
Your most obedient servant.

S Ramanathan
Government Advocate

Mr. Please put up the
requested at once:
DK 25/8

27 Jo



(8)

To
The First Class
& the Resident
in Mysore

Received Bags
& d
29-9-00 3/10. HR

4/10/00
374

Bangalore
28th Sept. 1900

No: 5300 & 13-10-1900
J565

Sir,

I am directed
to forward 3 body
warrants submitted
by the ~~Supt. Central Jail~~
~~Prisons in Mysore~~
as having been signed
by the Asst. Assistant
1st Class Magte. &
Ramkonda ~~the~~
~~Supt of the Central~~
~~Jail~~ through the Dt.
Magte. Bangalore

To
The Supt. Central Jail
Bangalore

Received
1-10-1900
HR

requiring 3 prisoners
under confinement
in the said gaol
to be produced before
the Stationary Sub
Magistrate at Point
-Kondatchy answer
a criminal charge when
warrants which appear
to have been issued
in the form prescribed
under the repealed
act XV of 1843 are
reported however to
have been duly
executed and the
question was raised by the Supt. Central gaol through the I.G. of Prisons
a general one as

29

affecting the power
of the Court in future
cases in India

The provisions of
Sec: 40 of the Prisoners
Act III of 1900 now
in force had been
followed which in
the opinion of the
Board was the
correct procedure
& the warrants
in question would
have been subject in
the first instance
to the High Court
of Madras which would
have exercised its
own discretion in
forwarding the same

k the Durbar two as a
the Residency
different and apparently
incorrect procedure
was adopted by the
H. afs 1st class Thanks
Pannikonda I am
to request the favor
of such notice being
taken of the same as
the Honble the President obliged com-
may deem fit & the result municated
I have &c— the Durbar.

C
29/9/—

Secy.

31 Read & Secy. (9)

GOVERNMENT OF MYSORE

Section D.D.
F. No. 200
Ser. No. 7

Letter No. 81 dt. 31st July 00 from the Insp. Genl. of Prisons in response submitting for orders certain correspondence rec'd from the Supt. of Central Jail Bangalore regarding the Regn. of the Court of Inspn. regarding pris. required the sent & Courts outside the Province, in compliance with the body warrants forwarded through the Dt. Magt. Bangalore.

2 D.O. 97 to Secy 00

Cpd: 10/13/00

from the Supt Central Jail Bangalore as requested submitting 3 original body warrants in illustration of the case put for orders in the correspondence above ref. to.

Read,

letter No. 768 dated 22nd Sept. /00 from the Govt. Advocate in response submitting his opinion on the questions raised.

Order:- No. S 332-34 / 372 dt 15-10-1900.

The two questions subd. for orders in the

papers read aboveas
1st by letter a prisoner
ex confined in the
Central Jail could
be sent under custody
to Court outside the
State in compliance
with a body warrant
forwarded through
the Dt Magte Banga
lore with the
orders of Govt and
2ndly whether the
period of detention
of such a prisoner
side the Province by
the Court issuing the
body warrants counts
towards the term

of the sentence of
imprisonment awarded
by a Court in the State
of which the prisoner
was undergoing at the
time of his removal
under the said warrant.

A reference will
be made to the Residency
in regard to the
first of the above questions, and further instructions will be sent later in regard to the second question as to the Govt Advocate as being consulted,
reports that as the
prisoner removed under
the circumstances referred to
is not released on bail
the period of his

35 [illegible] detention outside
the State would
count towards the
sentence he was
undergoing at the
time in the Central
Gaol. Copy of concern
in this opinion which
is recording will be com-
municated to the
Supt of the said
gaol through the
Secy of Prisons for
his information & guidance.

29-9-00

Secy.

To. The Secy of Prisons
" Reg Clerk
" Central in Registrar
" Govt Advocate

36

J. 1290

13005 1901
7-5-01.

From The First Asst Resident in Mysore.

Pol 1772

To Dewan.

THE SECY. TO THE GOVT. OF MYSORE,
GEN. & REV. DEPTS.

Dated 2nd May 1901

Despatched

Received

General No. 2218.
No.

Enclosure No.

Regarding the irregular procedure adopted by the 3rd Asst Magte of Anantapur in requiring 3 prisoners under confinement in the Central Jail, Bangalore to be produced before the Stationery Sub. Magte of Penukonda, and enquiring whether under the circumstances the Durbar have any objection for the extension of the Chief Courts Order of 23rd March 1898 in the manner ~~and to the class of cases~~ under contemplation by the Govt. of India re extradition of criminals.

(Extradition)

References to be marked.

Jud

References
Judl. 4-5-01.

Subd for orders.
S/5

The abstract was made by Clerk Veeraswami Naidu By an oversight he wrote "Extension" for "extradition" and begs to be excused.

14/5/01

Put up with Bill
Bill obtained and put up.
14/5/01

57

No. 2218

refer under 4/5/01

FROM

THE FIRST ASSISTANT TO THE RESIDENT
IN MYSORE.

To

The Dewan of Mysore.

Dated Bangalore, 2 May —1901.

SIR,

(S.N. 15) I am directed to refer to your office letter No. 5300/J.565 dated the 13th October 1900 bringing to notice the irregular procedure adopted by the Head Assistant Magistrate of Anantapur in requiring 3 prisoners under confinement in the Central Jail, Bangalore to be produced before the Stationary Sub-Magistrate of Penukonda and to state that the opinion of the Durbar expressed in the letter under reference that action should have been taken under section 40 of of the Prisoners Act, III of 1900 and not under the repealed Act XV of 1869, appears to the Resident untenable, inasmuch as the Act of 1900 is applicable only to British India and has of its own authority no force in Mysore territory.

Guide Ri. I.

2. The Government of Madras who were addressed ~~in~~ on the subject have, however, urged that an order under section 37 of Act III of 1900 would have been sufficient authority

authority to the officer in charge of the Bangalore Jail by virtue of the terms of the Notification No.111 dated the 23rd July 1878 which was issued by the Chief Commissioner of Mysore prior to the rendition and is still in force. The Notification in question directs that all criminal processes when issued by any competent Magistrate in British India, shall be acted upon and executed by all Magistrates and Police officers in Mysore. The Madras Government admit that the wording of this Notification does not expressly cover the case in question, in asmuch as there is no mention made in it of jail officers, but they observe that unless the existing Notification can be regarded as authorising the execution by the Superintendent of a Jail in Mysore of processes of the kind referred to, there will be no means by which a person confined in a Mysore Jail can be produced before a British Court.

3. I am to say that in the past it would clearly have been undesirable to extend the terms of the Notification, so as to provide for the surrender to ~~of~~ British authorities of a convict during the term of his imprisonment in a Mysore Jail in asmuch as there is no provision of law in British India under which such a prisoner can be restored to undergo the remaining portion of his imprisonment, after the termination of the proceedings before the British Court. The Government of India have now, however, under consideration a Bill to consolidate and amend the law relating to the extradition and rendition of criminals. If this be passed into law, it will be possible to procure the return to the Mysore State of a convict who has been temporarily handed over by the Durbar to appear before a Court in British India and there seems no reason why the terms of the Chief Commissioner's Notification of 1878 should not

[Vide I.O. Bill. 16.5.21]

not be expressly extended, as desired by the Madras Government.

4. I am to ask whether, in the event of the above mentioned Bill becoming law, the Durbar sees any objection to such an extension of the existing Notification.

I have the honor to be,
Sir,
Your most obedient servant,

L. Russell.

First Assistant Resident.

US.

LP

No 15927 & 30.5.1901.
1587

To

The First Asst Sec.
Resident in Mysore.

Submitted to the Dewan
for approval.
20/5/1901

Sir,

Adverting to your letter No 2218 dt the 2d May 1901, regarding the surrender of the British authorities of convicts undergoing imprisonment in Mysore Jails, I am directed to state that, ~~in further consideration of the matter~~, the Darbar agree in the view taken by the Resident that, the ~~Chief~~ Chief Commr's notification No 111 dt 23d July 1878 ~~refers~~ only to Magistrates and Police officers, there is no provision at present for enforcing the production of such convicts before the Courts of British India

2. I am to add that the Darbar would be prepared to agree to an extension of that notification to cover officers in charge of Jails, in the event of the Extra

X Copy sent to Dy Comr

(that notification confers no authority upon a Jail Officer in Mysore to send a convict undergoing his sentence in any legally constituted Jail in this Province. Nor does a warrant issued under that notification serve to bind within the precincts of such Jail.)

dition Bill now pending before the Govt of India, and embodying a provision to secure ~~for~~ the return to the Mysore State of convicts temporarily handed over to British Indian Courts, being passed into law—

41 × Vide copy put up!
Refd to [illegible]
[illegible]

⊗ S. 8 of the Bill.

I have etc

[illegible]
16-5-07

[illegible]

~~State~~

Referring to the proposed amendment of the late Chief Commrs notification it seems to the Durbar that it is premature to take any ~~[illegible]~~ action before the Extradition Bill now before the Legislative Council of the Govt of India is passed into Law— But the Durbar will not raise any objection to any procedure whereby the surrender of a convict to a British court of justice after his term of imprisonment will [illegible] in this State. will have expired,

and the possibility ~~[illegible]~~ of a convict undergoing imprisonment ~~to the~~ Mysore Jail being returned and handed over temporarily to the British authorities has been placed beyond all doubt.

[illegible]
24.V.07

will ~~is proposed to~~ be ~~regulated~~. facilitated

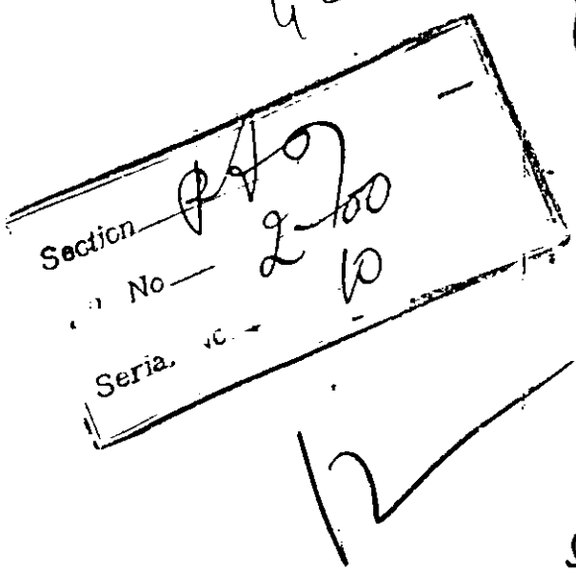
I have etc.

[illegible]

put up clean copy
[illegible]
25-5-07

25/5

42



Read the following papers:

(1) Govt Order No 5332-34 J.572 dt 15th Oct. 1900.

[In orders.]

(2) This office Letter No 5300 J.565 dt the 13th Oct. 1900 to the Joint-Sec. to the Resident in Yarkand.

[Need not be printed.]

(3) Letter No 2210 dt the 2nd May 1901 from the Joint-Sec. to the Resident in Yarkand

[Paras 2, 3, & 4].

(4) This office letter No 15727 J.1587 dt 30th May 1901, to the Joint-Sec. to the Resident in Yarkand.

[In orders.]

Order thereon No 16434-43 J.1640 dt 11-6-01.

The papers read above will be communicated to the Lieutenant General of Division for information & guidance.

Sd
16-6-01

Secy

To the J.S. of Yarkand
" the Resr. Chief Cashier Yarkand.
" all District Treasuries

Proceedings of the Government of Mysore,

READ THE FOLLOWING PAPERS—

I. Government Order No. 5332-34—J. 572, dated the 15th October 1900.

READ—

Letter No. 81—J., dated 31st July 1900, from the Inspector General of Prisons in Mysore, submitting for orders certain correspondence received from the Superintendent of Central Jail, Bangalore, and the Registrar of the Chief Court of Mysore, regarding prisoners required to be sent to Courts outside the Province, in compliance with body warrants forwarded through the District Magistrate, Bangalore.

2. D. O. dated 7th September 1900, from the Superintendent, Central Jail, Bangaloro, submitting as requested, three original body warrants in illustration of the case put for orders in the correspondence above referred to.

3. Letter No. 76, dated 22nd September 1900, from the Government Advocate in Mysore, submitting his opinion on the questions raised.

No. 5332-34—J. 572, DATED BANGALORE, 15TH OCTOBER 1900.

ORDER THEREON—The two questions submitted for orders in the papers read above are :—

1stly, whether a prisoner confined in the Central Jail could be sent under custody to a Court outside the State in compliance with a body warrant forwarded by a British Magistrate through the District Magistrate, Bangalore, without the orders of Government ; and

2ndly, whether the period of detention of such a prisoner outside the Province by the Courts issuing the body warrant counts towards the term of the sentence of imprisonment awarded by a Court in the State and which the prisoner was undergoing at the time of his removal under the said warrant.

A reference will be made to the Residency in regard to the first of the above questions, and further instructions will issue later on. Regarding the second question, the Government Advocate on being consulted, reports that as the prisoner removed under the circumstances referred to is not released on bail, the period of his detention outside the State would count towards the sentence he was undergoing at the time in the Central Jail. Government concur in this opinion, which will accordingly be communicated to the Superintendent of the said Jail through the Inspector General of Prisons, for his information and guidance.

III. Letter No. 5300—J. 563, dated the 13th October 1900, from the Secretary to the Government of Mysore, General and Revenue Departments, to the First Assistant to the Resident in Mysore.

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III. Letter No. 2218, dated the 2nd May 1901, from the First Assistant to the Resident in Mysore, to the Dewan of Mysore.

The Government of Madras, who were addressed on the subject have, however, urged that an order under Section 37 of Act III of 1900 would have been sufficient authority to the Officer in charge of the Bangalore Jail by virtue of the terms of the Notification No. 111, dated the 23rd July 1878, which was issued by the Chief Commissioner of Mysore prior to the Rendition and is still in force. The Notification in question directs that all criminal processes when issued by any competent Magistrate in British India, shall be acted upon and executed by all Magistrates and Police Officers in Mysore. The Madras Government admit that the wording of this Notification does not expressly cover the case in question, inasmuch as there is no mention made in it of Jail officers, but they observe that unless the existing Notification can be regarded as authorizing the execution by the Superintendent of a Jail in Mysore of processes of the kind referred to, there will be no means by which a person confined in a Mysore Jail can be produced before a British Court.

2. I am to say that in the past it would clearly have been undesirable to extend the terms of the Notification, so as to provide for the surrender to British authorities of a convict during the term of his imprisonment in a Mysore Jail inasmuch as there is no provision of law in British India under which such a prisoner can be restored to undergo the remaining portion of his imprisonment, after the termination of the proceedings before

the British Court. The Government of India have now, however, under consideration a Bill to consolidate and amend the law relating to the extradition and rendition of criminals. If this be passed into law, it will be possible to procure the return to the Mysore State of a convict who has been temporarily handed over by the Durbar to appear before a Court in British India, and there seems no reason why the terms of the Chief Commissioner's Notification of 1878 should not be expressly extended, as desired by the Madras Government.

4. I am to ask whether, in the event of the above mentioned Bill becoming law, the Durbar sees any objection to such an extension of the existing Notification.

IV. Letter No. 15927—J. 1587, dated 30th May 1901, from the Secretary to the Government of Mysore, to the First Assistant to the Resident in Mysore.

Adverting to your letter No. 2218, dated the 2nd May 1901, regarding the surrender to the British authorities of convicts undergoing imprisonment in Mysore Jails, I am directed to state that the Durbar agree in the view taken by the Hon'ble the Resident that the Chief Commissioner's Notification No. 111, dated 23rd July 1878, confers no authority upon a Jail officer in Mysore to send a convict undergoing his sentence in any legally constituted Jail in this Province. Nor does a warrant issued under that Notification seem to be binding within the precincts of such a Jail. Referring to the proposed amendment of the late Chief Commissioner's Notification, it seems to the Durbar that it is premature to take any action before the Extradition Bill now before the Legislative Council of the Government of India is passed into law and the possibility of a convict undergoing imprisonment in the Mysore Jail and handed over temporarily to the British authorities, being returned, has been placed beyond all doubt. But the Durbar will not raise any objection to any procedure whereby the surrender of a convict to a British Court of Justice after his term of imprisonment in this State will have expired, will be facilitated.

No. 16434-43—J. 1640, DATED BANGALORE, 11TH JUNE 1901.

ORDER THEREON—The papers read above will be communicated to the Inspector General of Prisons for information and guidance.

H. V. NANJUNDAYYA,
Secy. to Govt., Gen. & Rev. Dept.

To—The Inspector General of Prisons in Mysore.
Copy to the Registrar of the Chief Court of Mysore.
Copy to the District Magistrates.

Exd.—C.V.

1900-1901.

GOVERNMENT OF MYSORE

JUDICIAL

PROCEEDINGS

Dated 11th June 1901

No. 16434-43 / J. 1640

Communicating to the Inspector General of Prisons, copies of correspondence relating to the procedure for the transmission of prisoners from the Jails in Mysore to Courts outside the State in compliance with warrants issued by British Magistrates.

SBP—18-6-1901—300